

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

J.R., a minor, by and through her  
guardian ad litem, Janelle  
McCammack *et al.*,

Plaintiff,

V.

OXNARD SCHOOL DISTRICT, *et al.*  
Defendant.

Case No.: 2:17-cv-04304-JAK (FFMx)

## STIPULATED PROTECTIVE ORDER

## 1. A. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to

1 file confidential information under seal; Civil Local Rule 79-5 sets forth the  
2 procedures that must be followed and the standards that will be applied when a party  
3 seeks permission from the court to file material under seal.

4 **B. GOOD CAUSE STATEMENT**

5 This action is likely to involve protected health information, educational  
6 records of minors and/or proprietary information for which special protection from  
7 public disclosure and from use for any purpose other than prosecution of this action  
8 is warranted. Such confidential and proprietary materials and information consist  
9 of, among other things, student education records, health records and information  
10 related to students' disabilities (including information implicating privacy rights of  
11 third parties), information otherwise generally unavailable to the public, or which  
12 may be privileged or otherwise protected from disclosure under state or federal  
13 statutes, court rules, case decisions, or common law. Accordingly, to expedite the  
14 flow of information, to facilitate the prompt resolution of disputes over  
15 confidentiality of discovery materials, to adequately protect information the parties  
16 are entitled to keep confidential, to ensure that the parties are permitted reasonable  
17 necessary uses of such material in preparation for and in the conduct of trial, to  
18 address their handling at the end of the litigation, and serve the ends of justice, a  
19 protective order for such information is justified in this matter. It is the intent of the  
20 parties that information will not be designated as confidential for tactical reasons  
21 and that nothing be so designated without a good faith belief that it has been  
22 maintained in a confidential, non-public manner, and there is good cause why it  
23 should not be part of the public record of this case.

24 **2. DEFINITIONS**

25 **2.1 Action:** this pending federal lawsuit.

26 **2.2 Challenging Party:** a Party or Non-Party that challenges the  
27 designation of information or items under this Order.

28 / / /

1           2.3    “CONFIDENTIAL” Information or Items: information (regardless of  
2 how it is generated, stored or maintained) or tangible things that qualify for  
3 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
4 the Good Cause Statement.

5           2.4    Counsel: Outside Counsel of Record and House Counsel (as well as  
6 their support staff).

7           2.5    Designating Party: a Party or Non-Party that designates information or  
8 items that it produces in disclosures or in responses to discovery as  
9 “CONFIDENTIAL.”

10          2.6    Disclosure or Discovery Material: all items or information, regardless  
11 of the medium or manner in which it is generated, stored, or maintained (including,  
12 among other things, testimony, transcripts, and tangible things), that are produced or  
13 generated in disclosures or responses to discovery in this matter.

14          2.7    Expert: a person with specialized knowledge or experience in a matter  
15 pertinent to the litigation who has been retained by a Party or its counsel to serve as  
16 an expert witness or as a consultant in this Action.

17          2.8    House Counsel: attorneys who are employees of a party to this Action.  
18 House Counsel does not include Outside Counsel of Record or any other outside  
19 counsel.

20          2.9    Non-Party: any natural person, partnership, corporation, association, or  
21 other legal entity not named as a Party to this action.

22          2.10   Outside Counsel of Record: attorneys who are not employees of a  
23 party to this Action but are retained to represent or advise a party to this Action and  
24 have appeared in this Action on behalf of that party or are affiliated with a law firm  
25 which has appeared on behalf of that party, and includes support staff.

26          2.11   Party: any party to this Action, including all of its officers, directors,  
27 employees, consultants, retained experts, and Outside Counsel of Record (and their  
28 support staffs).

1           2.12 Producing Party: a Party or Non-Party that produces Disclosure or  
2 Discovery Material in this Action.

3           2.13 Professional Vendors: persons or entities that provide litigation  
4 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
5 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
6 and their employees and subcontractors.

7           2.14 Protected Material: any Disclosure or Discovery Material that is  
8 designated as “CONFIDENTIAL.”

9           2.15 Receiving Party: a Party that receives Disclosure or Discovery  
10 Material from a Producing Party.

11           3. SCOPE

12           The protections conferred by this Stipulation and Order cover not only  
13 Protected Material (as defined above), but also (1) any information copied or  
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
15 compilations of Protected Material; and (3) any testimony, conversations, or  
16 presentations by Parties or their Counsel that might reveal Protected Material.

17           Any use of Protected Material at trial shall be governed by the orders of the  
18 trial judge. This Order does not govern the use of Protected Material at trial.

19           4. DURATION

20           Even after final disposition of this litigation, the confidentiality obligations  
21 imposed by this Order shall remain in effect until a Designating Party agrees  
22 otherwise in writing or a court order otherwise directs. Final disposition shall be  
23 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
24 or without prejudice; and (2) final judgment herein after the completion and  
25 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
26 including the time limits for filing any motions or applications for extension of time  
27 pursuant to applicable law.

28           / / /

5. DESIGNATING PROTECTED MATERIAL

## 5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

(a) for information in documentary form (e.g., paper or electronic documents, but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix at a minimum, the legend “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that

1 contains protected material. If only a portion or portions of the material on a page  
2 qualifies for protection, the Producing Party also must clearly identify the protected  
3 portion(s) (e.g., by making appropriate markings in the margins).

4 A Party or Non-Party that makes original documents available for inspection  
5 need not designate them for protection until after the inspecting Party has indicated  
6 which documents it would like copied and produced. During the inspection and before  
7 the designation, all of the material made available for inspection shall be deemed  
8 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants  
9 copied and produced, the Producing Party must determine which documents, or  
10 portions thereof, qualify for protection under this Order. Then, before producing the  
11 specified documents, the Producing Party must affix the “CONFIDENTIAL legend”  
12 to each page that contains Protected Material. If only a portion or portions of the  
13 material on a page qualifies for protection, the Producing Party also must clearly  
14 identify the protected portion(s) (e.g., by making appropriate markings in the  
15 margins).

16 (b) for testimony given in depositions that the Designating Party identify  
17 the Disclosure or Discovery Material on the record, before the close of the deposition  
18 all protected testimony.

19 (c) for information produced in some form other than documentary and for  
20 any other tangible items, that the Producing Party affix in a prominent place on the  
21 exterior of the container or containers in which the information is stored the legend  
22 “CONFIDENTIAL.” If only a portion or portions of the information warrants  
23 protection, the Producing Party, to the extent practicable, shall identify the protected  
24 portion(s).

25 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
26 failure to designate qualified information or items does not, standing alone, waive the  
27 Designating Party’s right to secure protection under this Order for such material.  
28 Upon timely correction of a designation, the Receiving Party must make reasonable

1 efforts to assure that the material is treated in accordance with the provisions of this  
2 Order.

3       6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

4       6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
5 designation of confidentiality at any time that is consistent with the Court's  
6 Scheduling Order.

7       6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
8 resolution process under Local Rule 37.1 et seq.

9       6.3 The burden of persuasion in any such challenge proceeding shall be on  
10 the Designating Party. Frivolous challenges, and those made for an improper purpose  
11 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
12 expose the Challenging Party to sanctions. Unless the Designating Party has waived  
13 or withdrawn the confidentiality designation, all parties shall continue to afford the  
14 material in question the level of protection to which it is entitled under the Producing  
15 Party's designation until the Court rules on the challenge.

16  
17       7. **ACCESS TO AND USE OF PROTECTED MATERIAL**

18       7.1 Basic Principles. A Receiving Party may use Protected Material that is  
19 disclosed or produced by another Party or by a Non-Party in connection with this  
20 Action only for prosecuting, defending, or attempting to settle this Action. Such  
21 Protected Material may be disclosed only to the categories of persons and under the  
22 conditions described in this Order. When the Action has been terminated, a Receiving  
23 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

24       Protected Material must be stored and maintained by a Receiving Party at a  
25 location and in a secure manner that ensures that access is limited to the persons  
26 authorized under this Order.

27       7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless  
28 otherwise ordered by the court or permitted in writing by the Designating Party, a

1 Receiving Party may disclose any information or item designated  
2 "CONFIDENTIAL" only to:

3 (a) the Receiving Party's Outside Counsel of Record in this Action, as well  
4 as employees of said Outside Counsel of Record to whom it is reasonably necessary  
5 to disclose the information for this Action;

6 (b) the officers, directors, and employees (including House Counsel) of the  
7 Receiving Party to whom disclosure is reasonably necessary for this Action;

8 (c) Experts (as defined in this Order) of the Receiving Party to whom  
9 disclosure is reasonably necessary for this Action and who have signed the  
10 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

11 (d) the court and its personnel;

12 (e) court reporters and their staff;

13 (f) professional jury or trial consultants, mock jurors, and Professional  
14 Vendors to whom disclosure is reasonably necessary for this Action and who have  
15 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

16 (g) the author or recipient of a document containing the information or a  
17 custodian or other person who otherwise possessed or knew the information;

18 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
19 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
20 requests that the witness sign the form attached as Exhibit A hereto; and (2) they will  
21 not be permitted to keep any confidential information unless they sign the  
22 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise  
23 agreed by the Designating Party or ordered by the court. Pages of transcribed  
24 deposition testimony or exhibits to depositions that reveal Protected Material may be  
25 separately bound by the court reporter and may not be disclosed to anyone except as  
26 permitted under this Stipulated Protective Order; and

27 (i) any mediator or settlement officer, and their supporting personnel,  
28 mutually agreed upon by any of the parties engaged in settlement discussions.

1       8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN  
2       OTHER LITIGATION

3           If a Party is served with a subpoena or a court order issued in other litigation  
4       that compels disclosure of any information or items designated in this Action as  
5       “CONFIDENTIAL,” that Party must:

6               (a) promptly notify in writing the Designating Party. Such notification shall  
7       include a copy of the subpoena or court order;

8               (b) promptly notify in writing the party who caused the subpoena or order  
9       to issue in the other litigation that some or all of the material covered by the subpoena  
10      or order is subject to this Protective Order. Such notification shall include a copy of  
11      this Stipulated Protective Order; and

12               (c) cooperate with respect to all reasonable procedures sought to be pursued  
13       by the Designating Party whose Protected Material may be affected.

14           If the Designating Party timely seeks a protective order, the Party served with  
15      the subpoena or court order shall not produce any information designated in this action  
16      as “CONFIDENTIAL” before a determination by the court from which the subpoena  
17      or order issued, unless the Party has obtained the Designating Party’s permission. The  
18      Designating Party shall bear the burden and expense of seeking protection in that court  
19      of its confidential material and nothing in these provisions should be construed as  
20      authorizing or encouraging a Receiving Party in this Action to disobey a lawful  
21      directive from another court.

22       9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
23       PRODUCED IN THIS LITIGATION

24               (a) The terms of this Order are applicable to information produced by a  
25      Non-Party in this Action and designated as “CONFIDENTIAL.” Such information  
26      produced by Non-Parties in connection with this litigation is protected by the  
27      remedies and relief provided by this Order. Nothing in these provisions should be  
28      construed as prohibiting a Non-Party from seeking additional protections.

13 (c) If the Non-Party fails to seek a protective order from this court within  
14 14 days of receiving the notice and accompanying information, the Receiving Party  
15 may produce the Non-Party's confidential information responsive to the discovery  
16 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
17 not produce any information in its possession or control that is subject to the  
18 confidentiality agreement with the Non-Party before a determination by the court.  
19 Absent a court order to the contrary, the Non-Party shall bear the burden and expense  
20 of seeking protection in this court of its Protected Material.

21 | 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

22        If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed  
23        Protected Material to any person or in any circumstance not authorized under this  
24        Stipulated Protective Order, the Receiving Party must immediately (a) notify in  
25        writing the Designating Party of the unauthorized disclosures, (b) use its best efforts  
26        to retrieve all unauthorized copies of the Protected Material, (c) inform the person or  
27        persons to whom unauthorized disclosures were made of all the terms of this Order.

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1 and (d) request such person or persons to execute the “Acknowledgment and  
2 Agreement to Be Bound” that is attached hereto as Exhibit A.

3 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE  
4 PROTECTED MATERIAL

5 When a Producing Party gives notice to Receiving Parties that certain  
6 inadvertently produced material is subject to a claim of privilege or other protection,  
7 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
8 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
9 may be established in an e-discovery order that provides for production without prior  
10 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
11 parties reach an agreement on the effect of disclosure of a communication or  
12 information covered by the attorney-client privilege or work product protection, the  
13 parties may incorporate their agreement in the stipulated protective order submitted  
14 to the court.

15 12. MISCELLANEOUS

16 12.1 Right to Further Relief. Nothing in this Order abridges the right of any  
17 person to seek its modification by the Court in the future.

18 12.2 Right to Assert Other Objections. By stipulating to the entry of this  
19 Protective Order no Party waives any right it otherwise would have to object to  
20 disclosing or producing any information or item on any ground not addressed in this  
21 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
22 ground to use in evidence of any of the material covered by this Protective Order.

23 12.3 Filing Protected Material. A Party that seeks to file under seal any  
24 Protected Material must comply with Civil Local Rule 79-5. Protected Material may  
25 only be filed under seal pursuant to a court order authorizing the sealing of the specific  
26 Protected Material at issue. If a Party's request to file Protected Material under seal is  
27 denied by the court, then the Receiving Party may file the information in the public  
28 record unless otherwise instructed by the court.

### 13. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

14. Any violation of this Order may be punished by any and all appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: March 9, 2020

/S/ Frederick F. Mumm  
FREDERICK F. MUMM  
United States Magistrate Judge

EXHIBIT A

## ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of *J. R. by and through her guardian ad litem et al. v. Oxnard School District*, Case No.: 2:17-cv-04304-JAK-FFM. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order. I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date:

City and State where sworn and signed:

Printed name:

Signature: